

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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DAVID HOLMES,

Plaintiff,

vs.

9:06-CV-0919  
(DNH)(RFT)

HAUGEN, Correctional Officer, Eastern Correctional  
Facility; TRUE, Correctional Officer, Eastern  
Correctional Facility; JOHN DOE, Correctional  
Officer, Eastern Correctional Facility; BROWN,  
Superintendent, Eastern Correctional Facility;  
HEALY, Dep., Eastern Correctional Facility;  
LT. SIMMONS, Eastern Correctional Facility,

Defendants.

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APPEARANCES:

DAVID HOLMES  
Plaintiff, *pro se*

DAVID N. HURD  
United States District Judge

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**DECISION and ORDER**

Presently before the Court is an amended complaint filed by plaintiff David Holmes. Dkt. No. 7. This amended complaint was submitted by Holmes in compliance with the Decision and Order issued by this Court on November 7, 2006 ("November Order"). Dkt. No. 6.

Since the second amended complaint substantially cures the defects in Holmes' prior complaints, it may properly be filed with the Court.

Plaintiff does not name “John Doe,” “Brown,” “Healy,” and “Lt. Simmons” as defendants in his amended complaint. These individuals are therefore dismissed as defendants in this action.

THEREFORE, it is

ORDERED, that “John Doe,” “Brown,” “Healy,” and “Lt. Simmons” are dismissed as defendants in this action; and it is further

ORDERED, that the Clerk issue summonses naming the remaining defendants and forward them, along with copies of the amended complaint, to the United States Marshal for service upon the defendants, together with a copy of this Order.<sup>1</sup> The Clerk shall also forward a copy of the summons and amended complaint by mail to the Office of the Attorney General for the State of New York, together with a copy of this Order; and it is further

ORDERED, that a formal response to plaintiff's amended complaint be filed by the defendants or their counsel as provided for in the Federal Rules of Civil Procedure after service of process on the defendants; and it is further

ORDERED, that all pleadings, motions and other documents relating to this action must bear the case number assigned to this action and be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of it was mailed to all opposing parties or their counsel. Any document**

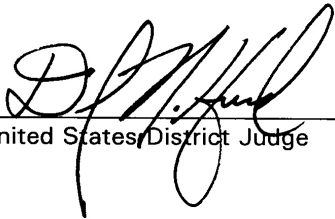
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<sup>1</sup> Plaintiff was granted leave to proceed with this action *in forma pauperis*. Dkt. No. 6.

**received by the Clerk or the Court which does not include a proper certificate of service will be returned, without processing.** Plaintiff must comply with requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York in filing motions, which must be returnable before the assigned Magistrate Judge with proper allowance for notice as required by the Rules. **Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel of any change in his address; his failure to do so will result in the dismissal of this action.** All motions will be decided on submitted papers without oral argument unless otherwise ordered by the Court; and it is further

ORDERED, that the Clerk serve a copy of this Order on plaintiff by regular mail.

IT IS SO ORDERED.

  
United States District Judge

Dated: December 4, 2006  
Utica, New York.